

REMARKS

Status of the claims

Claims 3, 4, 10, 11, 14, 16, 17, 26 and 29 - 35 were pending, examined, and have been rejected.

Claims 26 and 30 - 35 are canceled herein.

Claims 3, 4, 10 and 29 are amended herein.

Claims 36 - 41 are newly added.

Claims 3, 4, 10, 11, 14, 16, 17, 29 and 36 - 41 are thus presented for further examination.

Claim 36 corresponds to claim 30, now canceled, which in turn corresponded to claim 2, now canceled, rewritten in independent form. Support for claims 36 - 41 can be found in the original claims and throughout the specification. No new matter has been

Rejections Under 35 U.S.C. § 112, ¶ 2

Claims 4, 10, 11, 14, 16, 17, 26, 29, 31 - 33 and 35 were rejected as indefinite under 35 U.S.C. § 112, ¶ 2.

The rejection is moot as to canceled claims 26 and 31 - 35.

As to pending claims 3, 4, 10, 11, 14, 16, 17, 29, applicants respectfully submit that the rejections have been obviated by amendment.

In particular, the language of claim 4, in conjunction with amendments to claim 3 from which it depends, should now make clear the manner in which nuclease contact is effected, and the term "resultant product" has been removed from claim 10 in favor of a clear recitation that it is "the library of altered target nucleic acids resulting from the final iteration of steps (a) - (c)" which is introduced into cells to form the cellular library.

No new matter has been added by these clarifying amendments.

Rejections Under 35 U.S.C. §§ 102 and 103

In the Office Action mailed November 19, 2003, claims 3, 4, 16, 17, 26 and 29 were allowed, with claims 2, 8, 14, 25 and 28 said to be allowable if rewritten in independent form to include all of the limitations of the base and intervening claims from which they depended. Newly noting the recitation in claim 3, step (c), of "said nicked or target nucleic acid," the Examiner has now construed the claims far more broadly, reasserting rejections under 35 U.S.C. §§ 102 and 103 over references previously overcome.

Applicants thank the Examiner for his careful scrutiny of the claims.

Indeed, the offending "or" should have been deleted when the adjacent phrase "open ended" was deleted from the phrase "said nicked or open ended target nucleic acid" in applicants' amendment filed August 5, 2003. The word has now been definitively removed from claim 3 by amendment, restoring the intended meaning, and applicants respectfully submit that the claims, as amended, are novel and nonobvious over the cited art for the reasons advanced in applicants' prior responses.

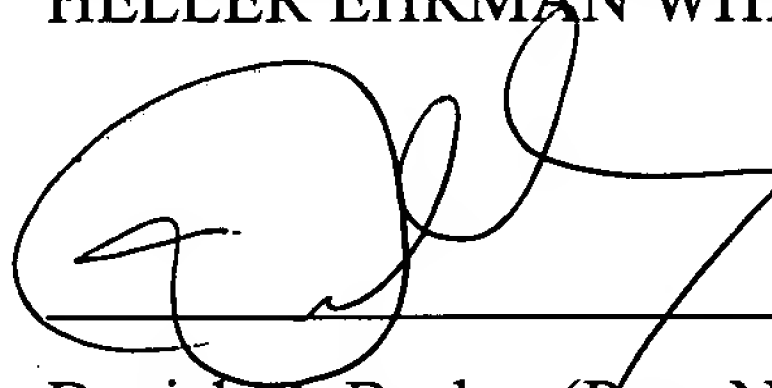
CONCLUSION

Applicants respectfully submit that the claims as amended herein are in condition for allowance. Applicants invite the Examiner to call the undersigned if he believes that there are, however, any outstanding matters that might be resolved most expeditiously by way of telephonic interview.

Respectfully submitted,

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Statement under 37 C.F.R. § 3.73(b)